

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

Kelley DeRoche,

Plaintiff

v.

Riexinger & Associates, LLC,

Defendant

FILED ELECTRONICALLY

COMPLAINT

I. Introduction

1. This is an action for damages brought by an individual consumer for violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (“the Act”) which prohibits debt collectors from engaging in abusive, unfair, and deceptive practices.

II. Jurisdiction and Venue

2. Jurisdiction of this Court is proper pursuant to 15 U.S.C. § 1692k(d), which permits an action under the Act to be brought in any court of competent jurisdiction.

3. Venue in this district is proper in that Defendant transacts business here and the conduct complained of is alleged to have occurred here.

III. Parties

4. Plaintiff, Kelley DeRoche, is a natural person residing at 1005 Pine Ridge, Bushkill, PA 18324.

5. Defendant, Riexinger & Associates, LLC, (“the Collector”) is a limited liability corporation engaged in the business of collecting debts in this state with a place of business located at 3100 Breckinridge Blvd., Suite 722, Duluth GA 30096 and is a “debt collector” as defined by the Act, 15 U.S.C. § 1692a(6).

IV. Statement of Claim

6. Within the past year the Collector was attempting to collect an alleged account (“the Account”) from Plaintiff.

7. The Account is a “debt” as that term is defined by the Act, 15 U.S.C. § 1692a(5).

8. The Collector regularly uses the mails to attempt to collect consumer debts alleged to be due another.

9. On or about March 6, 2012, the Collector caused to be mailed a letter addressed to Plaintiff (“the Letter”).

10. A true and correct copy of the Letter is attached as Exhibit A.
(Redacted to comply with Fed.R.Civ.P. 5.2(a), LR 5.2 and/or ECF Procedures 14.1.)

11. The Letter was an attempt to collect the Account.

12. The Letter contained the statement “Current Balance: \$1,309.31.” The Letter did not state the date on which the amount allegedly due was calculated, and did not explain that interest would continue to accrue on unpaid principal.

13. The Letter could reasonably be read to have two different meanings, one of which is inaccurate. The Letter could have meant that accruing interest and the total amount due were calculated on the date that the Letter was written.

14. Alternatively, the Letter could have meant that the amount of the debt was static and that no interest or other fees were accruing to the account. Under such an interpretation, payment of the claimed amount would satisfy the debt in full, irrespective of when the payment was made.

15. The claimed balance continued to increase after the date of the letter.

16. Thus, the interpretation identified in ¶ 14 was false, in violation of 15 U.S.C. §§ 1692e(2)(A) and (e)(10). *See Michalek v. ARS National Systems, Inc.*, 2011 WL 6180498 (M.D. Pa. December 13, 2011)(Caputo).

17. Defendant violated the Act.

WHEREFORE, Plaintiff demands judgment against Defendant for damages, costs, attorney's fees, and such other and further relief as the Court deems just and proper.

V. Demand for Jury Trial

Plaintiff demands a trial by jury as to all issues so triable.

Respectfully Submitted,

s/ Kristin Sabatini

Kristin Sabatini

Bar Number 200135

Attorney for Plaintiff

Sabatini Law Firm, LLC

216 N. Blakely St.

Dunmore, PA 18512

Phone (570) 341-9000

Facsimile (570) 504-2769

Email ksecf@bankruptcypa.com

Exhibit A
(The Letter)

RIEXINGER & ASSOCIATES, LLC
Attorneys at Law

Exhibit A

P. O. Box 956188
 Duluth, GA 30095-9504
 (800) 713-7780

File No.: 868290
 Account #: 0000000216932420
 Current Balance: \$1,309.31

03/06/2012



Dear Kelley Deroche:

The firm of Riexinger & Associates, LLC is a law firm representing BUREAUS INVESTMENT GROUP PORTFOLIO NO 16 LLC, the current creditor of the above referenced account which originated with HSBC RETAIL CARD SERVICES, INC.. In this regard, the above referenced matter has been placed with us for collection and such action as necessary to protect our client.

At this time, no attorney with this firm has personally reviewed the particular circumstances of your account. However, if you fail to contact this office, our client may consider additional remedies to recover the balance due.

If you have any questions regarding this matter, please contact this office at 678-205-1597 or toll free at 800-713-7780 between the hours of 8:00 A.M. and 8:00 P.M. on Monday through Friday.

CONSUMER NOTICE PURSUANT TO 15 U.S.C. SECTION 1692(G)

You are hereby given notice of the following information concerning the above referenced debt: 1. Unless, within 30 days after receipt of this notice you dispute the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the creditor and by this Firm. 2. If you notify us in writing within said 30 days that the debt, or any portion thereof is disputed, we will obtain verification of the debt, or a copy of any judgment against you, and we will mail such verification to you. 3. In addition, upon your written request within said 30 days, this Firm will provide the name and address of the original creditor if the original creditor is different from the current creditor. 4. This firm is attempting to collect a debt on behalf of the creditor and any information obtained will be used for that purpose. YOUR RIGHTS UNDER FEDERAL LAW TO REQUEST VERIFICATION OF YOUR OBLIGATION TO OUR CLIENT WITHIN 30 DAYS MUST BE ASSERTED IN WRITING AND IS NOT AFFECTED BY OUR REQUEST THAT YOU CONTACT OUR OFFICE BY TELEPHONE.

Sincerely,

Stephen P. Riexinger
 Attorney at Law
 Riexinger & Associates, LLC

IN REGARD TO THIS COMMUNICATION, RIEXINGER & ASSOCIATES, LLC IS ACTING AS A DEBT COLLECTOR AND THIS IS A COMMUNICATION FROM A DEBT COLLECTOR, AS DEFINED BY U.S.C. 1692 (A)(6). THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

PLEASE REFER ALL CORRESPONDENCE TO RIEXINGER & ASSOCIATES, LLC

Detach and return below portion with payment.

Riexinger & Associates, LLC
 P.O. Box 956188
 Duluth, GA 30095-9504

032678

File Number: 868290

Visa [] MasterCard []

Card Holder Name: _____

Card Holder Signature: _____

CREDIT CARD NO.:

□ □ □ □ □ □ □ □ □ □ □ □ □ □ □ □

EXPIRATION DATE:

□ □ □ □

PAYMENT AMOUNT:

\$ _____

Pay your bill online for FREE at www.riexingerlaw.com

REMIT TO:



Riexinger & Associates, LLC

P.O. Box 956188

Duluth, GA 30095-9504



35202***AUTO**MIXED AADC 350

Kelley Deroche

1005 Pine Rdg

Bushkill PA 18324-9733

110

Name:

Kelley Deroche

**Verification of Complaint and Certification
by Plaintiff Kelley Deroche**

Plaintiff, Kelley DeRoche, being duly sworn according to law, deposes as follows:

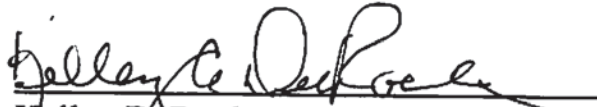
1. I am a plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification, or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass the Defendant, cause unnecessary delay to the Defendant, or create a needless increase in the cost of litigation to the Defendant, named in the Complaint.
5. I have filed this civil Complaint in good faith and solely for the purposes set forth in it.

6. If applicable, each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.

7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified, or fabricated these exhibits, except that some of the attached exhibits may contain exhibit labels and some of my own handwritten notations.

I declare under penalty of perjury that the foregoing is true and correct. 28 U.S.C. § 1746(2).

Executed on 8/31, 2012.


Kelley DeRoche
Plaintiff